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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,339	01/31/2001	Takeshi Sato	FUJR 18.275	5975
26304	7590	03/22/2006		
KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585			EXAMINER SHINGLES, KRISTIE D	
			ART UNIT 2141	PAPER NUMBER

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/773,339	Applicant(s) SATO ET AL.	
	Examiner Kristie Shingles	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8,10,12 and 13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,3-5,7,8,10,12 and 13 is/are rejected.  
7) ☒ Claim(s) 19-21 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### *Per Applicant's Request for Continued Examination:*

*Claims 1, 5 and 10 have been amended.  
Claims 2, 6, 9, 11 and 14-18 have been cancelled.  
Claims 19-21 are new.  
Claims 1, 3-5, 7, 8, 10, 12, 13 and 19-21 are pending.*

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/21/2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 5 and 10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

3. **Claims 19-21** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 3-5, 7, 8, 10, 12 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Rosu et al* (USPN 5,359,649) in view of *Yamato et al* (USPN 5,835,484).

a. **Per claims 1 and 10**, (differs only by purported statutory class), *Rosu et al* teach a communication apparatus for communicating with a plurality of stations and executing regulation control at a time of congestion, comprising:

- congestion monitoring means for monitoring a congestion state, setting a congestion level and determining whether or not to perform regulation based on said congestion level (col.4 lines 7-32, col.7 lines 39-55, col.8 lines 13-17; provision for monitoring the degree of congestion);
- wherein said congestion monitoring means uses at least one of a processor occupancy rate and a response time with respect to a received signal as an index at a time of setting said congestion level (col.4 lines 7-57, col.7 line 39-col.9 line 54);
- traffic measuring means for measuring a traffic intensity (col.4 lines 7-57; provision for measuring the network traffic carrying capacity);
- wherein said traffic measuring means measures the number of signals received from the stations as a traffic intensity (col.4 lines 7-57, col.8 line 18-col.9 line 54, col.17 line 64-col.18 line 3);
- traffic comparison means for comparing said traffic intensity with a preset traffic-regulation start traffic intensity when it is determined that regulation is to be performed (col.7 lines 39-45, col.8 lines 18-37, col.9 line 60-col.10 line 29, col.12 lines 7-66) and

- regulation control means for performing traffic regulation control when a comparison result shows that said traffic intensity is equal to or greater than said traffic-regulation start traffic intensity, and performing regulation control on a maintenance and operation process when said traffic intensity is smaller than said traffic-regulation start traffic intensity (col.11 line 37-col.12 line 66, col.13 line 65-col.14 line 22, col.14 line 59-col.16 line 7; route blocking and other regulatory procedures are performed as a means of traffic regulation when the threshold value of the route has been exceeded);

*Rosu et al* teach an alarm indicator (col.13 lines 59-65, col.14 lines 14-20, col.16 lines 13-27, col.19 line 67-col.20 line 9), yet fail to explicitly teach wherein said regulation control means sends an alarm to a maintenance terminal to stop the maintenance and operation process, when the traffic regulation control is performed. However, *Yamato et al* teach congestion conditions that trigger traffic regulation control (col.7 line 21-col.8 line 60, col.10 lines 10-29, col.10 line 66-col.11 line 23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Rosu et al* and *Yamato et al* for the purpose of providing an indicator or trigger for the traffic regulation control unit to begin regulating, wherein the indicator may be alarm or an occurrence of a congestive state or congestion indicator.

b. **Claim 5** contains limitations that are substantially equivalent to claims 1 and 10 and is therefore rejected under the same basis.

c. **Per claims 3 and 12**, *Rosu et al* and *Yamato et al* teach the communication apparatus and system according to claims 1 and 10, *Yamato et al* further teach wherein said regulation control means executes said traffic regulation control by changing stations to be regulated and a number of said stations to be regulated (col.7 lines 21-56, col.8 lines 10-60, col.10 line 66-col.11 line 23).

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d. **Claim 7** is substantially equivalent to claim 3 and is therefore rejected under the same basis.

e. **Per claims 4 and 13**, *Rosu et al* and *Yamato et al* teach the communication apparatus and system according to claims 1 and 10, *Yamato et al* further teach wherein said regulation control means counts a number of signals received from a station to be regulated and computes a ratio of a signal to be regulated from a count value, whereby said regulation control means executes said traffic regulation control with a same congestion level in accordance with said ratio (col.8 line 61-col.9 line 17, col.13 line 1-col.14 line 58).

f. **Claim 8** is substantially equivalent to claim 4 and is therefore rejected under the same basis

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Schwaller et al (6,901,442), Galand et al (6,424,624), Reps et al (6,070,190), Rakoshitz et al (6,578,077), Otsuka et al (6,038,218), Gvozdanovic (6,600,720).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

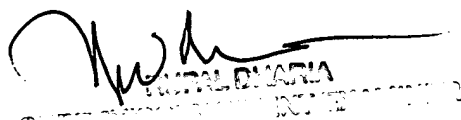
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***Kristie Shingles***

***Examiner***

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***kds***



RUPAL DHARIA